

**EPA R4 BROWNFIELDS GRANT
SITE ELIGIBILITY DETERMINATION OUTLINE**

To be used for determining site eligibility for Phase II Environmental Site Assessments under community-wide Assessment Grants and cleanups under RLF Grants.

A. GENERAL INFORMATION

1. Grantee Name: *City of Atlanta*
2. Grant Number: *BF 95461210-0*
3. Grant Type (104(k) Assessment, 104(k) RLF): *Assessment*
4. Work to be conducted by grantee (Phase I Assessment, Phase II Assessment, Phase III Assessment, Cleanup): *Phase I Assessment and Limited Facilities Assessment Survey*
5. How much funding do you anticipate spending on the site? *\$25,000*
6. Date of proposed work: *May 30, 2011*
7. Date of this document: *May 11, 2011*

B. BASIC SITE INFORMATION

1. Site Name: *400 Northside Drive Tract*
2. Site Address: *400 Northside Drive, Atlanta, Georgia*
3. Who is the current owner of the site? *Donald and Betty Smith*
4. Describe grantee's relationship with the owner, and the owner's role in the work to be performed:
Redevelopment Partner
5. Known or Suspected Contaminant(s) (check one):
 - ☐ Hazardous Substances
 - ☐ Mine Scarred Lands
 - ☐ Controlled Substances
 - ☐ Hazardous Substances Commingled with Petroleum
 - ☐ Petroleum Only
6. Identify when and how the site became contaminated; describe previous known uses. If the land has been vacant for many years, why does the grantee think that it is contaminated?

The subject property consists of a single parcel encompassing 0.90 acres and is located at 400 Northside Drive in Atlanta, Fulton County, Georgia. The subject site has been historically developed with a partly two-story commercial/office space and partly single-story warehouse space. The intent of this assessment is to perform a Phase I Environmental Site Assessment and a limited Facilities Assessment

Survey for suspect asbestos-containing materials (ACM) and leaded paint screening) in support of the potential acquisition of the property. None currently known.

7. Does the site meet the definition of a Brownfields Site? (Is the site “real property, the expansion, redevelopment or reuse of which is complicated by the presence or potential presence of hazardous substances, pollutants or contaminants”?)

☒ YES ☐ NO

C. SITES NOT ELIGIBLE FOR FUNDING BY STATUTE

The grantee must supply the following information to the best of their knowledge:

1. Is the facility listed (or proposed for listing) on the National Priorities List? ☐ YES ☒ NO
2. Is the facility subject to unilateral administrative orders, court orders, administrative orders on consent, or judicial consent decrees issued to or entered into by parties under CERCLA?
☐ YES ☒ NO
3. Is the facility subject to the jurisdiction, custody, or control of the US government. (Land held in trust by the US government for an Indian tribe is eligible.) ☐ YES ☒ NO

*Note: If the answer is YES to any of the above (C.1-3) the property is **not** eligible.*

D. SITES ONLY ELIGIBLE FOR FUNDING WITH A PROPERTY SPECIFIC DETERMINATION BY EPA:

Certain properties can only be approved with a Property Specific Determination by EPA. The grantee must provide answers to the following questions to the best of their knowledge:

1. Is the site/facility subject to a planned or ongoing CERCLA removal action? ☐ YES ☒ NO
2. Has the site/facility been the subject of a unilateral administrative order, court order, an administrative order on consent or judicial consent decree that has been issued to or entered into by the parties, or been issued a permit by the U.S. or an authorized state under the Solid Waste Disposal Act (as amended by the Resource Conservation and Recovery Act (RCRA)), the Federal Water Pollution Control Act (FWPCA), the Toxic Substances Control Act (TSCA), or the Safe Drinking Water Act (SWDA)? ☐ YES ☒ NO
3. Is the site/facility subject to corrective action orders under RCRA (sections 3004(u) or 3008(h)) and has there been a corrective action permit or order issued or modified to require corrective measures? ☐ YES ☒ NO
4. Is the site/facility a land disposal unit that has submitted a RCRA closure notification under subtitle C of RCRA and is subject to closure requirements specified in a closure plan or permit? ☐ YES ☒ NO
5. Has the site/facility had a release of polychlorinated biphenyls (PCBs) that is subject to remediation

under TSCA? ☐ YES ☒ NO

6. Has the site/facility received funding for remediation from the leaking Underground Storage Tank (LUST) Trust Fund? ☐ YES ☒ NO

Note: If the answer is YES to any of the above (D. 1-6), a property specific determination is required. The grantee must submit additional information, which can be found in Appendix A to this document.

E. HAZARDOUS SUBSTANCE/COMMINGLED CONTAMINATION SITES (for Petroleum only sites, skip to F.)

1. Does the grantee own the site? ☐ YES ☒ NO

2. Answer the following if the grantee *is the current site owner*. (If the grantee is not the current site owner, skip to 3) :

a. Is the owner a ☐ Unit of State or Local Government **or** ☐ Other

b. If the owner is a governmental unit, how was the property acquired?

☐ Tax Foreclosure ☐ Donation ☐ Eminent Domain ☐ Bought it outright

☐ Other (Explain):

Date acquired: _____

(If property was acquired by one of the first 3 options, do not need to answer c or d)

c. Did the owner conduct All Appropriate Inquiry prior to acquiring property?

☐ YES ☐ NO

d. Did the owner take reasonable steps with regards to the contamination at the site?

☐ YES ☐ NO

e. Do they have a defense to CERCLA liability? (see FY06 ARC Guidelines p. 21, Sec. 6 – 11)

☐ YES – Bona Fide Prospective Purchaser (BFPP)

☐ YES – Contiguous Property Owner

☐ YES – Innocent Land Owner

☐ YES – Indian Tribe

☐ NO

f. Are they liable at the site as an ☐ Operator, ☐ Arranger, **or** ☐ Transporter

OR ☐ None Applicable

g. Did all disposal of hazardous substances at the site occur before they acquired the property? ☐

YES ☐ NO

h. Did they cause or contribute to any release of hazardous substances at the site?

☐ YES ☐ NO

3. Answer the following if the grantee *is not the site owner*:

- a. Is the grantee liable at the site as an ☐ Operator, ☐ Arranger, **or** ☐ Transporter
OR ☒ None Applicable

F. PETROLEUM ONLY CONTAMINATION SITES

Petroleum sites need a written site eligibility determination by the state or EPA.

1. If the state *has made* the petroleum eligibility determination, the grantee must provide EPA with the letter from the state.
 2. If the state *was unable to make* the determination, EPA must make the determination consistent with the Guidelines (note that EPA staff will need to refer to Appendix 3 of the FY06 Guidelines to conduct the petroleum determination). The grantee must provide information regarding the following:
 - a. Whether the site is of “relatively low risk” compared with other “petroleum-only” sites in the state. Two key questions for this determination follow:
 1. Have Leaking Underground Storage Tank funds been expended at this site?
☐ YES ☒ NO
 2. Have Federal Oil Pollution Act response funds been expended at this site?
☐ YES ☒ NO
 - b. Whether there is a viable responsible party at the site. Key questions for this determination follow:
 1. Was the site last acquired through tax foreclosure, abandonment or equivalent government proceedings? ☐ YES ☒ NO
 2. Has a responsible party been identified through:
 - a) a judgment rendered in a court of law or an administrative order that would require any party to assess, investigate, or cleanup the site; ☐ YES ☒ NO **or**
 - b) a filed enforcement action brought by federal or state authorities that would require any party to assess, investigate, or cleanup the site; ☐ YES ☒ NO **or**
 - c) a citizen suit, contribution action or other third party claim against the current or immediate past owner, that would, if successful, require that party to assess, investigate, or clean up the site. ☐ YES ☒ NO;
- Skip to “b.5” if the site was acquired through tax foreclosure, abandonment or equivalent government proceedings; if not, answer question b.3 and 5.4.*
3. The current owner is: Donald and Betty Smith*[fill in the blank]* Has the current owner:
 - a) dispensed or disposed of petroleum or petroleum product at the site?
☐ YES ☐ NO
 - b) owned the property during the dispensing or disposal of petroleum product at the site? ☐ YES ☐ NO
 - e) exacerbated the contamination at the site? ☐ YES ☐ NO

- d) taken reasonable steps with regard to contamination at the site,
☐ YES ☐ NO.

4. The immediate past owner is: Not known [fill in the blank] Has the immediate past owner:

- a) dispensed or disposed of petroleum or petroleum product at the site? ☐ YES ☐ NO
b) owned the property during the dispensing or disposal of petroleum product at the site? ☐ YES ☐ NO
c) exacerbated the contamination at the site? ☐ YES ☐ NO
d) taken reasonable steps with regard to contamination at the site,
☐ YES ☐ NO

5. Based on the above, for purposes of Brownfields funding, is there a responsible party?
☐ YES ☐ NO If "YES" go on to #6, if "NO" proceed directly to F.2.C.

6. If there is a responsible party, is that party viable (has adequate financial resources to pay for assessment of the site). ☐ YES ☐ NO If "NO", explain the basis for that conclusion:

If there is a viable responsible party, the petroleum site is ineligible. If there is no responsible party, or if there is a responsible party who is not viable, continue. NOTE: States may apply their own laws and regulations to make the petroleum site determination instead of the previous questions; if they do so, the grantee must submit their determination and rationale.

c. Whether the grantee is potentially liable for cleaning up the site. Key questions for this determination follow:

1. Has the grantee ever:

- a) dispensed or disposed of petroleum or petroleum product at the site? ☐ YES ☐ NO
b) exacerbated the contamination at the site? ☐ YES ☐ NO

d. Is the site subject to any order issued under Sec. 9003(h) of the Solid Waste Disposal Act? ☐ YES ☐ NO

G. ACCESS

Does grantee have access or an access agreement for this property? ☒ YES ☐ NO

H. SITE ELIGIBILITY DETERMINATION BY EPA PROJECT OFFICER

Please Note: If there are any questions on eligibility, OR if the grantee owns the site it wishes to work on, the P.O. should consult with EPA legal counsel.

Site ☐ is / ☐ is not eligible for site assessment activities using EPA Brownfields Funds

-- OR --

☐ Site is eligible but requires an EPA Property-Specific Determination, for which additional information was provided.

EPA Project Officer

Date:

I. EPA NOTIFICATION TO APPLICANT OF SITE ELIGIBILITY

Date Sent : _____

Copy of Notification Attached: ☐ YES ☐ NO

APPENDIX A: [IF REQUIRED] INFORMATION TO SUPPORT PROPERTY SPECIFIC DETERMINATION by EPA

Grantee must explain why Brownfields financial assistance is needed and how it will protect human health and the environment and either promote economic development or enable the creation of, preservation of, or addition to parks, greenways undeveloped property, other recreational property, or other property used for nonprofit purposes.